



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

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April 27, 2007

David A.F. McCoy  
622 N. Main St.  
Benton, AR 72018

RE: Advisory Opinion # 483-07-04  
Dear Mr. McCoy:

This letter is in response for your request for an advisory opinion in accordance with § 19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

1. You are a former state employee of the DHHS Office of Appeals and Hearings where you served as a fair hearing officer to determine whether an individual's name should remain or be removed from the Child Maltreatment Central Registry.
2. In your capacity as a hearing officer, you were not a supervisor and had no responsibility for assigning cases.
3. Your cases were assigned to you by your supervisor; and, you had no responsibility for cases that were not assigned to you.
4. You are now an attorney in private practice.
5. You are requesting an opinion as to whether you may represent a party in a child maltreatment hearing.

A.C.A. §19-11-709(b) addresses restrictions on former state employees in matters connected with their former duties. A.C.A. §19-11-709(b)(1) imposes a permanent prohibition against acting as a principal or agent for anyone other than the state in matters in which the former employee "participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, where the state is a party or has a direct or substantial interest." A.C.A. §19-11-709(b)(2) imposes a one year prohibition against acting as a principal or agent for anyone other than the state in matters in which "were within the former employee's official responsibility, where the state is a party or has a direct or substantial interest." A.C.A. §19-11-709(c)(2) extends the restrictions on former state employees in matters connected with their former duties to the partner(s) of a former state employee.

Your query contained 4 scenarios: Cases that you heard or rendered a decision; Cases assigned to you that were not heard and no decision was made; Cases not assigned to you but were filed during your employment; and Cases filed after your employment with the state ceases.

Pursuant to the above stated law(s), you will be permanently precluded from representing anyone who was a party to a hearing in which you presided over or in which you rendered a decision. For those cases that were assigned to you, but for which you did not preside over the hearing or render a decision, you will be precluded from representing anyone who was a party in those cases for a period of one year after your employment with the state ended. However, notwithstanding the fact that the case was not heard and no

decision was rendered, if you participated personally and substantially in the matter you will be permanently precluded from representation. There is no restriction on your representation of parties involved in cases that were filed during your employment with the state but were not assigned to you so long as you did not have official responsibility for or participate personally and substantially in any of those cases. You are not subject to any restriction regarding any cases that were filed after your last day of employment with the state so long as you did not have official responsibility for or participate personally and substantially in any of those cases prior to terminating your employment with the state.

This advisory opinion is issued in accordance with A.C.A. §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order 98-04

Sincerely,

Richard A. Weiss  
Director

CC:  
Joe Giddis, OSP